

HOUSE BILL 3816
By Sargent

AN ACT to amend Tennessee Code Annotated, Title 56,
Chapter 50, Part 1, relative to life settlement
contracts.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 56-50-102, is amended by deleting subdivision (5) and substituting instead the following language:

(5) "Life settlement contract" means a written agreement which establishes the terms under which compensation or anything of value is paid, which compensation or anything of value is less than the expected death benefits of the policy, in return for the viator's assignment, transfer, sale, devise, or bequest for the death benefit or ownership of any portion of the policy. It includes any agreement under which the insured, viator, policyholder or the designee of the insured, policy owner or viator receives or is to receive consideration in exchange for the designation of or consent to assignment or transfer for the ownership or beneficiary interest in a policy regardless of the date that the consideration is provided to such person or the transfer or assignment occurs. A life settlement contract also includes any premium financing transaction or agreement collateral thereto which provides a guarantee of a policy's life settlement value, but does not include a policy loan by the insurer pursuant to the policy terms or a loan by a licensed lending institution that takes a collateral assignment of a policy solely as security for the loan and not as part of or in connection with an agreement guaranteeing a life settlement value.

SECTION 2. Tennessee Code Annotated, Title 56, Chapter 50, Part 1, is amended by adding the following language as a new, appropriately designated section:

Section 56-50-1___. It is a violation of this chapter for any person to enter into a life settlement contract at any time prior to the application or issuance of a policy which is the subject of a viatical settlement contract or for a two-year period commencing with the date of issuance of the insurance policy or certificate unless the seller certifies to the life settlement provider that one or more of the following conditions have been met within the two-year period:

(1) The policy was issued upon the settler's exercise of conversion rights arising out of a group or individual policy, provided the total of the time covered under the conversion policy plus the time covered under the prior policy is at least twenty-four (24) months. The time covered under a group policy shall be calculated without regard to any change in insurance carriers, provided the coverage has been continuous and under the same group sponsorship;

(2) The settler is a charitable organization exempt from taxation under 26 U.S.C.501(c)(3);

(3) The settler is not a natural person;

(4)

(A) The settler submits independent evidence to the viatical settlement provider that one or more of the following conditions have been met within the two-year period:

(i) The settler or insured is terminally or chronically ill;

(ii) The settler's spouse dies;

(iii) The settler divorces his or her spouse;

(iv) The settler retires from full-time employment;

(v) The settler becomes physically or mentally disabled and a physician determines that the disability prevents the seller from maintaining full-time employment;

(vi) The settler was the insured's employer at the time the policy or certificate was issued and the employment relationship terminated;

(vii) A final order, judgment, or decree is entered by a court of competent jurisdiction, on the application of a creditor of the seller, adjudicating the seller bankrupt or insolvent or approving a petition seeking reorganization of the seller or appointing a receiver, trustee, or liquidator to all or a substantial part of the settler's assets;

(viii) The settler experiences a significant decrease in income that is unexpected and that impairs the settler's reasonable ability to pay the policy premium; or

(ix) The settler or insured disposes of his or her ownership interests in a closely held corporation.

(B) Copies of the independent evidence described in subdivision (4) and documents shall be submitted to the insurer when the life settlement provider submits a request to the insurer for verification of coverage. The copies shall be accompanied by a letter of attestation from the life settlement provider that the copies are true and correct copies of the documents received by the life settlement provider.

(5) If the life settlement provider submits to the insurer a copy of the owner or insured's certification described in subdivision (4) when the provider

submits a request to the insurer to effect the transfer of the policy or certificate to the life settlement provider, the copy shall be deemed to conclusively establish that the life settlement contract satisfies the requirements of this section and the insurer shall timely respond to the request.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.